IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 859 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

CHHAGANLAL DAMODAR SHIGARA

Appearance:

MS HANSA PUNANI, APP, for Petitioner

MR MAHESH BHAVSAR for Respondent No. 1

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 07/04/2000

ORAL JUDGEMENT

1. The State of Gujarat has preferred this criminal appeal against the impugned judgment and order dated 21st March, 1991 rendered by learned Judicial Magistrate First Class, Dhrol-Jodia at Jodia in Criminal Case NO. 120 of 1988.

2. It so happened that the complainant Mr. S.B. Bhatt, being the Food Inspector at Jamnagar had an occasion to visit the shop of the accused being the respondent in this appeal on 21st January, 1988. The accused was selling jaggery (gur). The complainant purchased the said food article for the purpose of samples being prepared from such purchased article and being sent for its analysis for finding out whether there was any adulteration therein or not. One of the samples was accordingly sent to the Public Analyst, Bhuj who submitted his report that the samples (jaggery) did not conform to the standards laid down under the relevant provisions of the Prevention of Food Adulteration Act (P.F.A. Act for short). He, therefore, filed a complaint registered as the criminal case in question before the learned Judicial Magistrate. At the conclusion of trial, the accused came to be acquitted of the offence punishable under section 16 read with section 7 of the P.F.A. Act. by the learned Judicial Magistrate as per the impugned judgment of acquittal. The State has preferred this appeal as aforesaid against the said judgment.

3. Ms. Hansa Punani, learned A.P.P. appearing for the State and Mr. Bhavsar, learned advocate appearing for the accused had taken this court through the impugned judgment as well as the evidence placed on record. It would appear from the report of the Public Analyst appearing at Ex.20 that the sample of jaggery examined by the Public Analyst was not reported to be injurious to human health but it was reported to be not conforming to the standard and provisions laid down under the Prevention of Food Adulteration Rules, 1955. On going through the said report it would appear that all other standards stand satisfied except the standard of total sugar which was found to be 86.285% instead of minimum 90%, there being negligible deficit to the extent of 3.715%. It is in the background of such a report that the grounds of acquittal were examined in the light of evidence placed on record. It would not be necessary to deal with all the grounds of acquittal rendered by the learned Judicial Magistrate. Suffice it to say that on verification of the evidence placed on record, it would clearly appear that there is noncompliance of Rules 17 and 18 of the Prevention of Food Adulteration Rules, 1955 inasmuch as the copy of the memorandum and specimen impression used to seal the packet (containing sample) referred to in Rule 17 should be sent to the Public Analyst. It has been found as a matter of fact that the provisions of these rules have not been complied with.

Necessary evidence in the form of receipt of registered post parcel has not been placed on record. In this background, relying upon the decision of the Hon'ble Supreme Court in the case of State of Maharashtra vs. Rajkaran reported in Cr.L.R. (S.C.) 1988 at page No.84, the learned Magistrate has rendered acquittal. No other view of the matter either on facts or law on this count is possible.

4. In the result, this appeal is required to be dismissed. Ordered accordingly.

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